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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Assessment and Collection) MD Docket No. 02-64
of Regulatory Fees for)
Fiscal Year 2002)

To: The Commission

**REPLY COMMENTS OF THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

By:



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May 3, 2002

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding.¹ The Notice requests comment on the assessment and collection of regulatory fees for Fiscal Year ("FY") 2002.

I. INTRODUCTION

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz SMR operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and 450-512 MHz bands. Those whose systems are interconnected with the Public Switched Network ("PSN") are classified by the FCC as Commercial Mobile Radio Service ("CMRS")² and, therefore, are subject to payment of CMRS regulatory fees.³ Thus, AMTA and its members have a significant interest in the outcome of this proceeding.

In general, AMTA supports the regulatory fees proposed for FY 2002. However, as explained below, AMTA is concerned over the proposed increase in regulatory fees associated with

¹ *Notice of Proposed Rulemaking*, MD Docket No. 02-64, FCC 02-92 (rel. March. 27, 2002) ("NPR" or "Notice").

² 47 C.F.R. § 20.3.

³ To the extent that they provide interconnection at all, most AMTA members offer only limited interconnect capability. The vast majority of units on systems operated by AMTA members are limited to dispatch service with no ability to access the PSN. For this reason, and because the Commission has not yet determined how to address systems that provide a mix of CMRS and Private Mobile Radio Service ("PMRS") offerings, the Association has urged the FCC in numerous previously-filed comments in this proceeding to limit CMRS regulatory fee obligations to those units with interconnection capability. To date, the Commission has declined to do so.

CMRS Messaging Services.⁴ Most of AMTA's members which pay CMRS regulatory fees operate with less than 10 MHz of bandwidth and therefore fall within the category of CMRS Messaging Services. Accordingly, AMTA will limit its comments to this issue.

II. DISCUSSION

As stated in the Notice, Congress has required the Commission to collect \$218,757,000 in regulatory fees to "recover the costs of our competition, enforcement, spectrum management, and consumer information activities for FY2002."⁵ The Commission explained the development of the proposed FY 2002 fees as follows:

In developing our proposed FY 2002 regulatory fee schedule, we first estimated the number of payment units for FY 2002. Then we compared the FY 2001 revenue estimate amount to the \$218,757,000 that Congress has required us to collect in FY 2002 and pro-rated the difference among all the existing fee categories. Finally, we divided the FY 2002 payment unit estimates into the pro-rated FY 2002 revenue estimates to determine the new FY 2002 fees.⁶

The Commission further explained:

It is important to note also that Congress required a revenue increase in regulatory fee payments of approximately 9.3 percent in FY2002, which will not fall equally on all payers because payment units have changed in several services. When the number of payment units in a service increases from one year to another, fees do not have to rise as much as they would if payment units had decreased or remained stable. Declining payment units have the opposite effect on fees.⁷

⁴CMRS Messaging Service licensees include Paging, interconnected Business, interconnected 220 MHz, narrowband PCS and SMR systems authorized for operations with less than 10 MHz bandwidth.

⁵Notice at ¶2.

⁶*Id.* at ¶10.

⁷*Id.* at n.17.

In FY 2001 the Commission estimated the number of payment units for CMRS Messaging Services to be 30,000,000.⁸ The pro-rated revenue requirement for that year was \$1,625,054.⁹ For Fiscal Year 2001, the regulatory fee was set at \$.05 per unit.¹⁰ In the Notice, the Commission states that the Wireless Telecommunications Bureau ("Bureau") estimates that for CMRS Messaging Services the number of payment units for FY 2002 will be reduced to 23,600,000.¹¹ According to the Notice, the pro-rated revenue requirement for FY 2002 is \$1,776,184.¹² The Commission proposes to increase the regulatory fee to \$.08 per unit.¹³

While AMTA does not necessarily dispute the Bureau's estimates for the number of CMRS Messaging Services payment units for FY 2002, it is concerned that the increase in regulatory fees may not accurately correspond to the administrative costs associated with this category of licensee. Presumably, as the number of payment units decreases, there is a corresponding licensee attrition rate, which in turn corresponds to a decrease in the Commission's enforcement, spectrum management and user information activities.¹⁴ The Association urges the Commission to carefully

⁸See *Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, Report and Order, MD Docket No. 01-76. 16 FCC Rcd 13525 (2001)("Report and Order").

⁹*Id.* at Attachment C.

¹⁰*Id.*

¹¹Notice at Attachment C.

¹²*Id.*

¹³*Id.*

¹⁴ Payment units are "the number of subscribers, mobile units, pagers, cellular telephones, licenses, call signs, adjusted gross revenue dollars, etc. which represent the base volumes against which fee amounts are calculated." *Id.* at n. 15.

consider the actual administrative costs associated with licensees in the CMRS Messaging Services as it proceeds to develop regulatory fees for FY 2002 and future years. AMTA questions the appropriateness of a regulatory fee schedule that increases the fee payment as a particular industry segment diminishes.

III. CONCLUSION

For the reasons described above, AMTA recommends that the Commission proceed with the development of regulatory fees consistent with the position expressed herein.

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this May 3, 2002 caused to be mailed, first-class, postage prepaid, a copy of the foregoing Reply Comments to the following:

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